

Dated: March 27, 2020



Daniel P. Collins, Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:

AHMAD WALI MAILATYAR and
EDYTA KAMILA MAILATYAR,

Debtors.

In Proceedings Under Chapter 7

Case No. 2:17-bk-13538-DPC

**ORDER DENYING DEBTORS'
REQUEST TO ENFORCE
HOMESTEAD EXEMPTION**

This matter came before the Court on the *Notice of Enforcing Homestead Exemption* (the “**Notice**”) [Dkt. No. 310] filed by AHMAD WALI MAILATYAR and EDYTA KAMILA MAILATYAR, husband and wife (“**Debtors**”) in the above-captioned Chapter 7 bankruptcy case relating to certain real property located at 7712 E. Journey Lane, Scottsdale, Arizona 85255 (the “**Journey Lane Property**”). In the Notice, the Debtors seek to “enforce” a homestead exemption approximately 5 months after the sheriff properly sold the subject property with notice to the Debtors.

On March 24, 2020, Timothy R. Wright filed his *Response in Opposition to Debtors’ Notice of Enforcing Homestead Exemption* [Dkt. No. 313], (the “**Response**”) opposing the relief requested in the Notice. On March 25, 2020, the Court held a hearing (the “**Hearing**”) on the Notice, at which the Debtors appeared *pro se* and Wright appeared through his counsel. Based on the Notice, the Response, and the arguments and testimony

1 given at the Hearing, and the entire record before the Court in the above-captioned
2 bankruptcy case,

3 **THE COURT FINDS AND CONCLUDES** as follows:

4 1. On November 14, 2017 (the “**Petition Date**”), the Debtors filed their
5 voluntary petition under Chapter 13 of the Bankruptcy Code (the “**Bankruptcy Case**”).

6 2. On January 10, 2019, the Trustee requested the Court to dismiss the
7 Bankruptcy Case because the Debtors failed to comply with this Court’s Order and failed
8 to appear at the meeting of creditors.

9 3. On January 11, 2019, this Court entered an *Order Dismissing Case* [Dkt.
10 No. 303].

11 4. On February 26, 2020, the Court closed the Debtors’ Bankruptcy Case.
12 [Dkt. No. 309].

13 5. The Debtors have not moved to reopen their Bankruptcy Case.

14 6. Issues raised in Wright’s Response relate to testimony provided by the
15 Debtors in connection with litigation and judgment enforcement actions taken by Wright
16 in state court, and such testimony was given in July, 2019, approximately: (i) 18 months
17 after the Debtors’ Bankruptcy Case was dismissed, and (ii) 5 months after the Debtors’
18 Bankruptcy Case was closed.

19 **WHEREFORE, THE COURT HEREBY ORDERS:**

20 A. The relief requested in the Notice is denied due to this Court’s lack of
21 jurisdiction over the Debtors’ Bankruptcy Case because the Debtors’ Bankruptcy Case has
22 been dismissed and remains closed; and

23 B. This order is without prejudice to the Debtors to seek relief in state court as
24 may be appropriate under applicable state law and state court rules of procedure.

25
26 **DATED AND SIGNED AS INDICATED ABOVE.**
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